

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SECOND DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 21617 of 2004

Between:

**M. Sudershan Reddy, S/o. Narayana Reddy, Hindu,
R/o. Sivalapalli Village, Chennur Mandal, Kadapa District.**

..... PETITIONER

AND

**The Executive Engineer, R.W.S(Rural Water Supply) (PR Division),
KADAPA, Kadapa District.**

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, order or direction more particularly one in the nature of Writ of Mandamus, declaring the action of the respondent in not paying the cost of 80 mm CID/F pipe at Rs.869-50 PS for running meter as per the agreement and as per the tender schedule after completion of the work of providing PWS (Pure Water Supply) Scheme to Gopavaram Kottalu Village in Chennur Mandal of Kadapa District and also in reducing the rate exactly to half without notice, without passing any order and without enquiry as illegal, unjust, arbitrary, against the principles of natural justice, extraneous, dilatory and against the statutory provisions and consequently direct the respondent to pay Rs.869-50 Ps. for running meter of 80 mm CID/F pipe for 114 meters.

Counsel for the Petitioner:MR.L.J.VEERA REDDY

Counsel for the Respondent : GP FOR ROADS & BUILDINGS

The Court made the following :

The Hon'ble Sri Justice

K.C. Bhanu

W.P. No. 21617 of 2004

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ORDER:

The present writ petition is filed seeking to issue a writ of Mandamus declaring the action of the respondents in not paying the cost of 80mm CID/F pipe at Rs.869-50ps. for running meter as per the agreement and as per the tender schedule after completion of the work of providing PWS (Pure Water Supply) Scheme to Gopavaram Kottalu village in Chennur Mandal of Kadapa District and also in reducing the rate exactly to half without notice, without passing any order and without any enquiry as illegal and arbitrary.

It is stated that the petitioner became the highest bidder in respect of work of providing pure water supply scheme. An agreement of contract is entered into between the petitioner and the respondent. Subsequently the respondent requested the petitioner to lay 34 meters more of 80mm CID/F pipe as that additional length of pipe is required to link the filter point to the tank. The work was completed as per the specifications in the agreement. The rate of 80mm CID/F pipe is Rs.869-50ps. as per the schedule and accordingly he purchased the said pipe and paid the excise duty, but the respondent is saying that the cost of Rs.869-50ps. is for 2 meters of 80mm CID/F pipe. The petitioner states that the respondent cannot reduce the cost of the pipe exactly to half having entered into an agreement. Therefore, he got issued a legal notice. It is further stated that there is absolutely no dispute which is worth of agitating before a civil court. It is only a legal question whether the respondent can be permitted to reduce the rate of 80mm CID/F pipe at Rs.869-50ps. for running meter. Hence the writ petition.

Learned counsel for the petitioner contended that as per the agreement the respondent has to pay the rate of Rs.869-50ps. for

80mm CID/F pipe and without assigning any reasons now the respondent is saying that he would pay at Rs.869-50ps. for two meters of CID/F pipe, which is illegal and arbitrary.

As per the agreement, for one running meter the agreed amount payable to the petitioner is Rs.869-50ps. While exercising the power of judicial review in respect of contracts entered into on behalf of the State, this court is primarily concerned as to whether there has been any infirmity in the decision making process. The purpose of judicial review is to ensure that the individual receives fair treatment and not to ensure that the authority can act arbitrarily. Having entered into the contract, it is the duty of the respondent to pay the amount as agreed. If the petitioner is not entitled to any amount in pursuance of the agreement, the respondent is bound to inform the petitioner as to why he is not entitled. No such communication has been given to the petitioner. The petitioner also got issued a legal notice dated 27.10.2004. The respondent cannot withhold the amount without assigning any reasons.

Therefore, the writ petition is disposed of directing the respondent to consider the case of the petitioner with reference to his legal notice dated 27.10.2004 and also as per the agreement entered into between the petitioner and the respondent dated 28.7.2003 and pass appropriate orders in accordance with law.

K.C. Bhanu, J.

Date: 02--12—2004.

MVB.

..... REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

**1. The Executive Engineer, R.W.S(Rural Water Supply) (PR Division),
KADAPA, Kadapa District.**

1.2CCs to G.P. for Roads and Buildings, High Court Buildings, Hyderabad (OUT).

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